

U.S. Department of Justice



United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

January 20, 2011

BY HAND AND ELECTRONIC FILING

The Honorable John F. Keenan
United States District Judge
United States Courthouse
500 Pearl Street, Room 1930
New York, NY 10007

Re: United States v. Egan, 10 Cr. 191 (JFK)

Dear Judge Keenan:

The Government writes concerning the January 20, 2011 letter-motion submitted by petitioner Money Spot, Inc. ("Money Spot") for a conference in the above-referenced matter. As a threshold matter, Money Spot's letter references that they have made "several attempts to contact the Assistant US Attorney" and "received no response" concerning their petition and discovery requests they have served on the Government. The undersigned notes, however, that the undersigned has never been contacted by Money Spot's counsel. Moreover, Money Spot's letter copies an Assistant U.S. Attorney who has not been with this Office since October 2010, even though two other Assistant U.S. Attorneys are listed on the docket sheet in this matter.

Money Spot's Request for the Production of Documents is also improper under Rule 32.2(c) of the Federal Rules of Criminal Procedure. First, the criminal case is still pending as the defendant has not yet been sentenced. Second, under Rule 32.2(c), *after* the Court disposes of any motions to dismiss the petition(s), and before conducting a hearing, "the Court *may permit* the parties to conduct discovery in accordance with the Federal Rules of Civil Procedure if the court determines that discovery is *necessary or desirable* to resolve factual issues." Fed. R. Crim. P. 32.2(c)(1)(B) (emphasis added). To this end, the Government will be moving to dismiss several petitions in this matter, including Money Spot's, and thus the Government does not intend to respond to Money Spot's improper discovery requests at this juncture.


The Honorable John F. Keenan
January 20, 2011
Page 2

For the foregoing reasons, the Government submits that a conference on the issues raised in Money Spot's January 20, 2011 letter is unnecessary at this time, and Money Spot's letter motion should be rejected. Thank you very much for the Court's consideration.

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By:



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cc: Evan R. Shusterman, Esq. (via ECF)